AMENDED IN ASSEMBLY MARCH 17, 2016

ASSEMBLY BILL   No. 2052

Introduced by Assembly Member Williams

February 17, 2016

An act to ~~amend Section 597 of~~ *add Section 597.8 to* the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2052, as amended, Williams. Animal cruelty.

Existing law makes it a crime, punishable as specified, to commit various forms of animal abuse, including maliciously or intentionally maiming or killing an animal and dogfighting.

This bill would require, upon conviction of specified types of animal abuse but prior to sentencing, the court to order the person convicted to submit to a psychiatric or psychological examination, to be provided and paid for by the court. The bill would require the court to consider the result of the examination in determining a sentence.

~~Existing law makes it a crime, punishable as specified, to maliciously and intentionally maim, mutilate, torture, or wound a living animal, or maliciously and intentionally kill an animal. Existing law also makes it a crime, punishable as specified, to overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink, or shelter, cruelly beat, mutilate, or cruelly kill an animal.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

1   *SECTION 1. Section 597.8 is added to the Penal Code, to read:*
2   *597.8. Upon conviction pursuant to subdivision (a) or (b) of*
3   *Section 597 or Section 597a, 597b, 597h, 597j, 597s, or 597.1, but*
4   *prior to sentencing, the court shall order the person convicted to*
5   *submit to a psychiatric or psychological examination. All*
6   *examinations shall be provided and paid for by the court. The*
7   *results of the examination shall be sent by the examining*
8   *psychologist or psychiatrist to the court and to the attorneys for*
9   *the prosecution and the defense. The court shall consider the*
10   *results of the examination in determining a sentence.*
11   ~~SECTION 1. Section 597 of the Penal Code is amended to~~
12   ~~read:~~
13   ~~597. (a) Except as provided in subdivision (c) of this section~~
14   ~~or Section 599c, a person who maliciously and intentionally maims,~~
15   ~~mutilates, tortures, or wounds a living animal, or maliciously and~~
16   ~~intentionally kills an animal, is guilty of a crime punishable~~
17   ~~pursuant to subdivision (d).~~
18   ~~(b) Except as otherwise provided in subdivision (a) or (c), a~~
19   ~~person who overdrives, overloads, drives when overloaded,~~
20   ~~overworks, tortures, torments, deprives of necessary sustenance,~~
21   ~~drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal,~~
22   ~~or causes or procures an animal to be so overdriven, overloaded,~~
23   ~~driven when overloaded, overworked, tortured, tormented, deprived~~
24   ~~of necessary sustenance, drink, shelter, or to be cruelly beaten,~~
25   ~~mutilated, or cruelly killed; and whoever, having the charge or~~
26   ~~custody of an animal, either as owner or otherwise, subjects an~~
27   ~~animal to needless suffering, or inflicts unnecessary cruelty upon~~
28   ~~the animal, or in any manner abuses an animal, or fails to provide~~
29   ~~the animal with proper food, drink, or shelter or protection from~~
30   ~~the weather, or who drives, rides, or otherwise uses the animal~~
31   ~~when unfit for labor, is, for each offense, guilty of a crime~~
32   ~~punishable pursuant to subdivision (d).~~
33   ~~(c) Every person who maliciously and intentionally maims,~~
34   ~~mutilates, or tortures a mammal, bird, reptile, amphibian, or fish,~~
35   ~~as described in subdivision (e), is guilty of a crime punishable~~
36   ~~pursuant to subdivision (d).~~
37   ~~(d) A violation of subdivision (a), (b), or (c) is punishable as a~~
38   ~~felony by imprisonment pursuant to subdivision (h) of Section~~

1 1170, or by a fine of not more than twenty thousand dollars
2 ($20,000), or by both that fine and imprisonment, or alternatively,
3 as a misdemeanor by imprisonment in a county jail for not more
4 than one year, or by a fine of not more than twenty thousand dollars
5 ($20,000), or by both that fine and imprisonment.
6 (e) Subdivision (c) applies to a mammal, bird, reptile,
7 amphibian, or fish that is a creature described as follows:
8 (1) Endangered species or threatened species as described in
9 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
10 Fish and Game Code.
11 (2) Fully protected birds described in Section 3511 of the Fish
12 and Game Code.
13 (3) Fully protected mammals described in Chapter 8
14 (commencing with Section 4700) of Part 3 of Division 4 of the
15 Fish and Game Code.
16 (4) Fully protected reptiles and amphibians described in Chapter
17 2 (commencing with Section 5050) of Division 5 of the Fish and
18 Game Code.
19 (5) Fully protected fish as described in Section 5515 of the Fish
20 and Game Code.
21 This subdivision does not supersede or affect any law relating
22 to taking of the described species, including, but not limited to,
23 Section 12008 of the Fish and Game Code.
24 (f) For the purposes of subdivision (e), each act of malicious
25 and intentional maiming, mutilating, or torturing a separate
26 specimen of a creature described in subdivision (e) is a separate
27 offense. If a person is charged with a violation of subdivision (e),
28 the proceedings shall be subject to Section 12157 of the Fish and
29 Game Code.
30 (g) (1) Upon the conviction of a person charged with a violation
31 of this section by causing or permitting an act of cruelty, as defined
32 in Section 599b, all animals lawfully seized and impounded with
33 respect to the violation by a peace officer, officer of a humane
34 society, or officer of a pound or animal regulation department of
35 a public agency shall be adjudged by the court to be forfeited and
36 shall thereupon be awarded to the impounding officer for proper
37 disposition. A person convicted of a violation of this section by
38 causing or permitting an act of cruelty, as defined in Section 599b,
39 shall be liable to the impounding officer for all costs of

1 impoundment from the time of seizure to the time of proper
2 disposition.
3 (2) Mandatory seizure or impoundment shall not apply to
4 animals in properly conducted scientific experiments or
5 investigations performed under the authority of the faculty of a
6 regularly incorporated medical college or university of this state.
7 (h) Notwithstanding any other law, if a defendant is granted
8 probation for a conviction under this section, the court shall order
9 the defendant to pay for, and successfully complete, counseling,
10 as determined by the court, designed to evaluate and treat behavior
11 or conduct disorders. If the court finds that the defendant is
12 financially unable to pay for that counseling, the court may develop
13 a sliding fee schedule based upon the defendant's ability to pay.
14 An indigent defendant may negotiate a deferred payment schedule,
15 but shall pay a nominal fee if the defendant has the ability to pay
16 the nominal fee. County mental health departments or Medi-Cal
17 shall be responsible for the costs of counseling required by this
18 section only for those persons who meet the medical necessity
19 criteria for mental health managed care pursuant to Section
20 1830.205 of Title 9 of the California Code of Regulations or the
21 targeted population criteria specified in Section 5600.3 of the
22 Welfare and Institutions Code. The counseling specified in this
23 subdivision shall be in addition to any other terms and conditions
24 of probation, including a term of imprisonment and a fine. This
25 provision specifies a mandatory additional term of probation and
26 is not to be utilized as an alternative in lieu of imprisonment
27 pursuant to subdivision (h) of Section 1170 or county jail when
28 that sentence is otherwise appropriate. If the court does not order
29 custody as a condition of probation for a conviction under this
30 section, the court shall specify on the court record the reason or
31 reasons for not ordering custody. This subdivision shall not apply
32 to cases involving police dogs or horses as described in Section
33 600.

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